

Environmental Defense Fund
The Bay Institute
Save The Bay
Natural Heritage Institute
Natural Resources Defense Council

Copies sent to: SG, PW, JLI
Date: 2/16/99

February 3, 1999

Honorable Mary D. Nichols
Secretary for the Resources Agency
Resources Agency
1416 9th Street, Suite 1311
Sacramento, CA 95814

Dear Madame Secretary:

Thank you for meeting with us and other Environmental Water Caucus members on January 21st. We look forward to your leadership on CALFED and other water-related issues during the Davis administration.

As we mentioned during our meeting, the Department of Water Resources, under the Wilson Administration, established policy regarding operating criteria in the Delta that is in direct conflict with the Department of Interior's statutory obligation to implement provisions of the Central Valley Project Improvement Act. A major conflict regarding this policy did not arise in 1998 because it was such a wet year.

Under current conditions, however, the State and federal guidelines for operating the Delta export pumps may diverge as early as March 1, 1999. If the State's previous policy, as set forth in the April 16, 1998 letter from Robert Potter of the Department of Water Resources to Roger Patterson of the Bureau of Reclamation (attached), is allowed to prevail, Interior's efforts to restore both estuarine and anadromous fish in accordance with the CVPIA may not only fail, but the State Water Project may export the CVP water that is intended for fish and deliver it to its contractors.

Specifically, Interior's Delta Action #3 authorizes, in some years, additional releases from CVP reservoirs to increase Delta outflow during the March-June period. This supplemental Delta outflow would increase the amount of low salinity habitat for fishery protection, as measured by the "X2" variable, beyond that required by the 1995 Water Quality Control Plan. If the State, as it has previously threatened, exports these additional CVP releases for SWP contractors, it will both undo Interior's protective action and take water that rightfully belongs to the CVP.

Several of Interior's other Delta Actions are at risk as well. Delta Actions #1, #5 and #7 authorize reductions in exports below the maximum levels specified by the 1995 WQCP to protect species of both anadromous and estuarine fish during sensitive periods. If the

CVP reduces its export levels to accomplish these actions and the SWP responds with a corresponding increase in exports, it will once again be taking CVP water which has been dedicated to the environment by the CVPIA.

Such interference with the implementation of federal law would not only undo Interior's protective actions, it would also present a major challenge to the credibility of the State-federal partnership in the CALFED program, particularly with respect to ongoing efforts to develop assurances regarding implementation of environmental restoration measures.

We ask that you direct DWR to cooperate with Interior in its implementation of the CVPIA's Delta Actions, as long as it does not interfere with the ability of the SWP to deliver water to its contractors in accordance with the regulations which govern SWP operations, chiefly those defined by the 1995 Water Quality Control Plan and Order 98-9. We also ask that any CVP water, that is released to meet the CVPIA's Upstream Actions but is ultimately captured by the SWP's export pumps, be used to reduce Delta export pumping at a time, to be determined by agency biologists, that will produce the maximum possible biological benefit.

Thank you for your consideration of this request. We will work with the CALFED Operations Group in 1999 to provide the protection to the Bay-Delta-Central Valley system that is authorized by State and federal law.

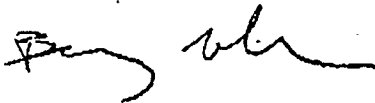
Sincerely,



Spreck Rosekrans
Environmental Defense Fund



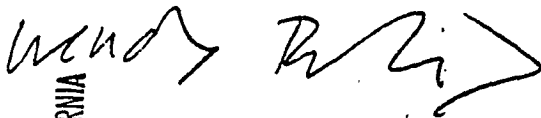
Gary Bobker
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Barry Nelson
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Wendy Pulling
Natural Resources Defense Council

cc: Linda Adams, Office of the Governor

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